

LAW OFFICES OF

PIPER & MARBURY

2000 FIRST MARYLAND BUILDING
25 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530

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EDWARD S. DIGGES, JR.

PARTNERS EMERITUS
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J. MARTIN McDONOUGH
GEORGE S. NEWCOMER
JESSE SLINGLUFF

January 2, 1979

RECORDATION NO. 9425-C Filed 1425
JAN 3 1979 - 3 32 PM

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
12th and Constitution Avenue
Washington, D. C. 20423

Gentlemen:

Pursuant to the provisions of Section 20c of the Interstate Commerce Act, as amended, and the regulations of the Interstate Commerce Commission promulgated thereunder, we are transmitting for filing and recording originals or executed counterparts of the following documents:

1. Assignment and Modification Agreement dated December 29, 1978 by and among National Railway Utilization Corporation ("NRUC"), The First National Bank of Maryland ("FNB") and Sun Life Insurance Company of America ("Sun Life"), assigning and modifying that certain Conditional Sale Agreement dated as of July 27, 1978 between Evans Transportation Company, as Vendor, and NRUC, as Vendee. Such Conditional Sale Agreement was filed with the Interstate Commerce Commission on July 27, 1978 (Recordation No. 9425-C).

2. Assignment and Modification Agreement dated December 29, 1978 by and among NRUC, FNB and Sun Life, assigning and modifying that certain Conditional Sale Agreement dated October 31, 1978 between Evans Transportation Company, as Vendor, and NRUC, as Vendee. Such Conditional Sale Agreement was filed with the Interstate Commerce Commission on October 31, 1978 (Recordation No. 9425-G).

The names and addresses of the parties to each of the above agreements are listed below:

RECEIVED
JAN 3 3 28 PM '79
FEE OPERATION
I.C.C.

JAMES J. WINN, JR.
JOHN E. KRATZ, JR.
FRANCIS X. WRIGHT
JEFFREY J. RADOWICH
MICHAEL ESHER YAGGY
STEVEN D. SHATTUCK
W. GAR RICHLIN
MARK POLLAK
ALEXANDER C. SHORT
EDWARD FREMONT MAGEE
STANARD T. KLINEFELTER
DAVID F. TUFARO
CARL E. EASTWICK
JEFFREY D. HERSCHMAN
WILLIAM R. HANSEN
JOSEPH H. LANGHIRT
NEIL J. DILLOFF
EDWARD C. SLEDGE
VIRGINIA K. ADAMS
JOHN A. MACCOLL

FRANCIS B. BURCH, JR.
THOMAS E. PLANK
EARL S. WELLSCHLAGER
CECILIA JANUSZKIEWICZ
DAVID M. KOHEN
GERARD P. UEHLINGER
RICHARD C. TILGHMAN, JR.
JOANNE E. POLLAK
DOROTHY A. BEATTY
RICHARD J. HAFETS
ROBERT DALE KLEIN
EDWARD J. LEVIN
ROBERT W. SMITH, JR.
SUSAN GILLETTE
ELIZABETH G. NEWCOMB
ROBERT J. OWEN, JR.
CHARLES B. STRAUS, III
PAUL K. CASEY
JOHN P. MACHEN

Conveyed to John H. Wood

Interstate Commerce Commission
January 2, 1979

National Railway Utilization Corporation
1100 Centre Square
1500 Market Street
Philadelphia, Pennsylvania 19102

The First National Bank of Maryland
25 South Charles Street
Baltimore, Maryland 21201

Sun Life Insurance Company of America
Sun Life Building
20 South Charles Street
Baltimore, Maryland 21201

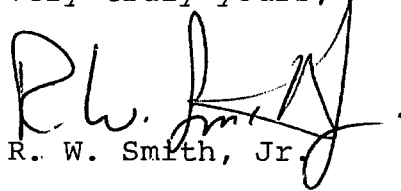
A general description of the equipment covered by the Conditional Sale Agreements to which the two Agreements and Modification relate are contained in Exhibits A and B attached to this letter.

The above identified Agreements and Modification have not heretofore been recorded with the Interstate Commerce Commission; however, they relate, and should be filed as a part of, the respective Conditional Sale Agreements which they assign.

Please accept for recordation two counterparts of each document, stamp the remaining counterparts with the appropriate recordation number and return them with your fee receipt and letter confirming receipt to my delivering messenger.

The necessary filing and recordation fees for these documents are submitted herewith.

Very truly yours,


R. W. Smith, Jr.

RWSJr/fja

Exhibit A

<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Road Numbers (Both Inclusive)</u>	<u>Price Per Unit</u>	<u>Total Base Price</u>	<u>Original Conditional Sale Indebtedness</u>	<u>Estimated Time and Place of Delivery</u>
70 ton, 50'6" Class XM boxcars	70 ton, 50'6" single sheaved boxcars with out-side posts, 10'0" slidding doors, rigid underframe, Class XM, as further described in Builder's Specifications 77-70 (WO 1416), dated June 13, 1977, as revised October 4, 1977	50	NSL 155056-155099 and MNJ 120935-120940	35,579	1,778,950	1,690,010	July 28, 1978 Chamblee, Georgia and Princeton, Kentucky

Conditional Sale Agreement Dated October 31, 1978

Exhibit B

Type	Builder's Specifications	Quantity	Road Numbers (Both Inclusive)	Price Per Unit	Total Base Price	Original		Estimated Time and Place of Delivery
						Conditional Sale	Indebtedness	
70 ton, 50'6" Class XM boxcars	70 ton, 50'6" single sheaved boxcars with out- side posts, 10'0" slidding doors, rigid underframe, Class XM, as fur- ther described in Builder's Specifi- cations 77-70 (WO 1416), dated June 13, 1977, as re- vised October 4, 1977	30	NSL 155220- 155249	\$37,078	\$1,112,340	\$1,056,724		October 3, 1978 at Princeton, Kentucky

Interstate Commerce Commission

Washington, D.C. 20423

1/3/79

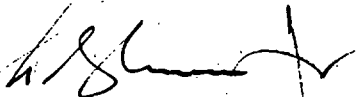
OFFICE OF THE SECRETARY

R.W. Smith, Jr.
Piper & Marbury
2000 First Maryland Building
25 S. Charles Street
Baltimore, Maryland 21201

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 1/3/79 at 3:30pm, and assigned recordation number(s) 9425-I & 9425-J

Sincerely Yours,



H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

July 27, 1978 CSA

ASSIGNMENT AND MODIFICATION AGREEMENT

RECORDATION NO. 9435 Filed 1425

JAN 3 1979 - 3 30 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND MODIFICATION AGREEMENT (the "Agreement") dated as of December 29, 1978 by and among National Railway Utilization Corporation ("NRUC"), The First National Bank of Maryland ("FNB") and Sun Life Insurance Company of America ("Sun Life").

WHEREAS, NRUC, FNB and Sun Life have entered into a Conditional Sale Agreement Purchase Commitment Agreement dated May 31, 1978 (the "Purchase Agreement") for the purpose of financing the purchase by NRUC of railroad boxcars; and

WHEREAS, in accordance with the Purchase Agreement a Conditional Sale Agreement dated July 27, 1978 (the "Conditional Sale Agreement") was executed by NRUC and Evans Transportation Company (the "Builder"), and was simultaneously assigned by the Builder to FNB and Sun Life pursuant to an Agreement and Assignment of even date therewith; and

WHEREAS, NRUC has subsequently received a Commitment Letter dated December 4, 1978 (the "Commitment Letter") from Monumental Life Insurance Company ("Monumental") and Volunteer State Life Insurance Company ("Volunteer") providing a commitment by Monumental and Volunteer to provide long-term financing of railroad boxcars; and

WHEREAS, in reliance upon the Commitment Letter, FNB has agreed to purchase at par Sun Life's 50% interest in the Conditional Sale Agreement, remove the Conditional Sale Agree-

ment from the Purchase Agreement, and provide interim financing of the Conditional Sale Agreement until the earlier of June 1, 1979 or funding by Monumental and Volunteer pursuant to the Commitment Letter;

NOW, THEREFORE, in consideration of the sum of \$1.00 and the mutual covenants and agreements contained herein, and other good and valuable consideration, the parties hereto agree as follows:

1. Assignment by Sun Life. For and in consideration of the sum of \$845,000, receipt of which is hereby acknowledged, Sun Life hereby assigns, transfers, and sets over unto FNB, its successors and assigns all of its right, title and interest in and to the Conditional Sale Agreement, the equipment financed thereby, and the security interest granted therein, without recourse of any kind, except that Sun Life represents and warrants that (i) it is the absolute owner of a 50% participation interest in the Conditional Sale Agreement, and possesses title to the same free and clear of all liens, encumbrances, security interests or claims of any kind arising from or through Sun Life and (ii) it has full power and authority to assign and to transfer its interest in the Conditional Sale Agreement to FNB. Sun Life agrees that it will at the request of FNB or its successors or assigns, make, execute and deliver such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate to give effect to the above assignment and transfer. Sun Life hereby delivers to FNB its Participation Certificate

dated June 27, 1978 evidencing its interest in the Conditional Sale Agreement, and FNB hereby acknowledges receipt of the same.

2. Warranties of NRUC. NRUC hereby represents and warrants that it has received the Commitment Letter, and agrees that the proceeds of the financing to be provided pursuant thereto will be used to purchase the Conditional Sale Agreement from FNB and thereby repay in full FNB's interim financing. NRUC shall use its best efforts to cause the long-term financing to be provided pursuant to the Commitment Letter to be completed on or before May 1, 1979, and agrees that if necessary to consummate such financing it will repay to FNB any amounts due and owing under the Conditional Sale Agreement which are in excess of the amount which Monumental and Volunteer have agreed to finance pursuant to the Commitment Letter. If for any reason whatsoever the financing contemplated by the Commitment Letter is not completed, or is not used to repay the Conditional Sale Agreement, NRUC covenants and agrees that it shall not thereafter arrange for or complete any other long-term financing or long-term lease agreement secured by boxcars until the balance owing to FNB under the Conditional Sale Agreement has been repaid either out of the proceeds of the first available long-term financing or lease agreement or from any other source whatsoever.

3. Removal from Purchase Agreement. NRUC, FNB and Sun Life hereby agree that as of the date hereof the Condi-

tional Sale Agreement is a separate financing undertaken solely by FNB, and is no longer subject to the Purchase Agreement or its terms and conditions, including the provisions relating to the cross-default and cross-collateralization.

4. Modification of Conditional Sale Agreement.

Article Four of the Conditional Sale Agreement is hereby modified and amended as of the date hereof by deleting the existing paragraphs (a) and (b) in Article Four in their entirety and the replacement in lieu thereof of the following:

(a) Principal Payments - The principal sum of \$1,690,000 (hereinafter called the "Conditional Sale Indebtedness") is payable by one payment in the amount of \$266,840 due and payable on December 29, 1978, with the balance of \$1,423,160 payable on June 1, 1979.

(b) Interest Payments - Interest (computed on the basis of the actual number of days elapsed from the date of this Agreement divided by a year of Three Hundred Sixty (360) days) on the unpaid Conditional Sale Indebtedness shall be accrued and paid at a fluctuating rate of interest equal at all times to the prime rate of The First National Bank of Maryland plus 1 1/4% per annum.

Interest accrued and unpaid through and including the date of December 29, 1978 shall be paid on or before January 10, 1979. Interest accrued and payable thereafter shall be payable on March 30, 1979 and June 1, 1979. For purposes of the above, the prime rate shall mean the lowest unregulated per annum corporate lending rate publicly quoted by The First National Bank of Maryland for borrowers from time to time on loans of 90-day maturity. All increases or decreases in the prime rate at The First National Bank of Maryland shall be reflected immediately in the interest rate charged with respect to the unpaid Conditional Sale Indebtedness.

The Vendee will pay interest, to the extent legally enforceable, at the rate of 12% per annum upon all matters remaining unpaid after the same shall have been due and payable pursuant to the

terms hereof or such lesser amounts as shall be legally enforceable, anything herein to the contrary notwithstanding.

5. Applicable Law. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording and depositing of Conditional Sale Agreement and related documents, any financing statement with respect thereto and this Agreement as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement and related documents, any financing statement with respect thereto or this Agreement shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto

affixed and duly attested, all as of the date first above written.

ATTEST:

NATIONAL RAILWAY UTILIZATION
CORPORATION

J. W. Strzpek
Asst. Sec. *W*
[Corporate Seal]

By Charles P. Turney
C. P.

ATTEST:

THE FIRST NATIONAL BANK OF
MARYLAND

Robt M. Black
[Corporate Seal]

By *[Signature]*

ATTEST:

SUN LIFE INSURANCE COMPANY
OF AMERICA

[Signature]
SECRETARY
[Corporate Seal]

By Paul Wiesner

[Signature]
STATE OF MARYLAND)
Philadelphia) SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29 day of December, 1978,
before the subscriber, a Notary Public in and for said City and
State, personally appeared Charles P. Turney, who, being by me
duly sworn, says that he is a Vice President of National Railway

IN TESTIMONY WHEREOF, I have hereunto set my hand
and official seal, this 29th day of December, 1978.

Charles M. Guette
Notary Public

DARLENE MARQUETTE
Notary Public, Phila., Phila. Co.
My Commission Expires Sept. 13, 1982

My Commission expires:

I HEREBY CERTIFY, that on this 29th day of December, 1978, before the subscriber, a Notary Public in and for said ~~County~~ ^{County} and State personally appeared Arthur E. Jones, Jr., who, being by me duly sworn, says that he is a Senior Loan Executive of The First National Bank of Maryland, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution

of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 29th day of December, 1978.

Eleanor R. Walker
Notary Public

[Notarial Seal]

My Commission expires:

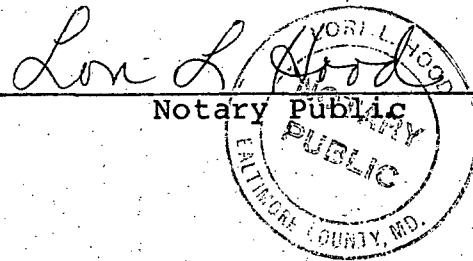
July 1, 1982

STATE OF MARYLAND)
)SS:
CITY OF BALTIMORE)

I HEREBY CERTIFY, that on this 29th day of December, 1978, before the subscriber, a Notary Public for said City and State personally appeared Paul Wiesner, who, being by me duly sworn, says that he is a Vice President of Sun Life Insurance Company of America, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand

and official seal, this 24th day of December, 1978.



[Notarial Seal]

My Commission expires: 7/1/82

MAYER, BROWN & PLATT

231 SOUTH LA SALLE STREET

EUROPEAN OFFICE
14 MOORFIELDS HIGHWALK
LONDON EC2Y 9DL
01-588-0667
TELEX 8811095
CABLE LEMAYLDN

CHICAGO, ILLINOIS 60604

312-782-0600
TELEX 253760
CABLE LEMAY

March 8, 1979

WASHINGTON OFFICE
888 SEVENTEENTH STREET, N.W.
WASHINGTON, D. C. 20006
202-785-4443
TELEX 892603
CABLE LEMAYDC

EXPRESS MAIL

H. Gordon Homme, Jr., Secretary
Interstate Commerce Commission
Washington, D.C. 20423

10080 changed to 9425-*lg* x *k*
RECORDATION NO. *9425-*lg* x *k** Filed 1025

MAR 9 1979 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

Re: Correction of Recordation Numbers
For Documents Relating to Conditional
Sale Agreements of National Railway
Utilization Corporation

Dear Mr. Homme:

Pursuant to our telephone conversation this afternoon, I am returning to you originals or executed counterparts of the documents listed below which were recorded by the Interstate Commerce Commission on February 9, 1979 at 3:15 p.m. According to our mutual understanding, these documents were incorrectly assigned the Recordation Nos. 10080, 10080-A and 10080-B, instead of numbers continuing the 9425 sequence assigned to prior related documents. The documents are:

1. Agreement and Assignment, dated as of January 30, 1979, by and among The First National Bank of Maryland, Sun Life Insurance Company of America, Assignors, and Continental Illinois National Bank and Trust Company of Chicago, Assignee, together with acknowledgements by National Railway Utilization Corporation and Whittaker Corporation (Berwick Forge & Fabricating Division). [Recorded as No. 10080; it should be No. 9425-I].
2. Amendment to Conditional Sale Agreement [dated as of May 31, 1978], dated as of January 30, 1979, among National Railway Utilization Corporation and Continental Illinois National Bank and Trust Company of Chicago. [Recorded as No. 10080-B; it should be No. 9425-J].
3. Amendment to Conditional Sale Agreement [dated as of October 27, 1978], among National Railway Utilization Corporation and Continental Illinois National Bank and Trust Company of Chicago. [Recorded as No. 10080-A; it should be No. 9425-K].

*C. Owen Lyman to 9425-*lg* x *k* Mandy Lins*

H. Gordon Homme, Jr.

-2-

March 7, 1979

4. Transmittal letter, dated February 7, 1979, from Arthur J. Bruen, Jr., Vice President, Continental Illinois National Bank & Trust Company of Chicago.
5. Fee receipt and letter confirming receipt of documents, both dated February 9, 1979.

You have agreed that these documents will be assigned the Recordation Nos. 9425-I, 9425-J and 9425-K. Would you please have the Recordation Nos. on the enclosed documents corrected to reflect that change. Please note that the stamped Recordation date (February 9, 1979) should not be changed, as you are merely correcting the assigned numbers, and this is not a new filing. I would appreciate having the changed numbers indicated on every one of the enclosed documents and the changes initialed.

I also understand that you will process a refund of \$40.00, the difference between the \$50.00 fee erroneously charged for one of the documents and the \$10.00 that should have been charged therefor. Please send the refund to Mayer, Brown & Platt at my attention.

After correcting the Recordation Nos. on the enclosed documents, please return them to my delivering messenger.

Thank you for your help in getting this matter straightened out. I appreciate your giving your personal attention to this mix-up.

Very truly yours,

Louis Michael Bell

Louis Michael Bell

LMB:mmt
Enclosures